



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/681,796

10/08/2003

Stephen Brian Gates

81230.97US1

6632

34018 7590 05/24/2006

GREENBERG TRAURIG, LLP  
77 WEST WACKER DRIVE  
SUITE 2500  
CHICAGO, IL 60601-1732

EXAMINER

DINH, DUC Q

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/681,796	<b>Applicant(s)</b> GATES ET AL.	
	<b>Examiner</b> DUC Q. DINH	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4,9-12,14,20 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,9-12,14,20 and 22-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on March 14, 2006. Claims 1-4, 9-12, 14, 20, and 22-28 are remain pending in the Application. Claim 1, 12, 22, 25 and 28 are currently amended. A Final Office Action is provided as follows.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 9-13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen et al. (U.S Patent No. 6,137,479) hereinafter Olsen, in view of Lu (US 2003/0107552 A1).

In reference to claim 1 Olsen discloses a controlling device (Fig. 2A) for controlling a PC and one or more home appliances (col. 2, lines 40-68), the controlling device comprising:

a wireless transmitter for sending control data to the PC and one or more home appliances (col. 4, lines 6-9; col. 5, lines 1-7).

a user interface having a plurality of user interface elements (28 and 36) wherein a first subset (26 and 38) of the plurality of user interface elements are activate able for sending control data to the PC via the wireless transmitter when the sensor causes activation of the first control mode (col. 4, lines 21-31) and a second subset (26 and 38) of the plurality of user interface elements which includes at least one user interface element within the first subset of the plurality

of user interface elements are activatable for sending control data via the wireless transmitter to the one or more home appliances (the computer mouse can be programmed to perform other functions such as controlling auxiliary devices; col. 4, lines 64-67) when the sensor causes activation of the second control mode.

Accordingly, Olsen discloses everything except a sensor for activating a first control mode and a second control mode based on interaction of the control device with a surface;

Lu discloses a computer mouse with dual functionality including a sensor for activating a first control mode and a second control mode based on interaction of the control device with a surface [0030-0031].

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide a sensor for switching from one function to another, i.e.: activating a first control mode to a second control mode based on interaction of the control device with a surface in the device of Olsen in view of the teaching of Lu because it would provide a control device that can avoid inadvertent operations between computer and home appliances.

In reference to claim 2, Olsen discloses the wireless transmitter comprises a first wireless transmitter (col. 4, lines 5-10) and a second wireless transmitter (col. 5, lines 1-7), the first wireless transmitter being associated with the first control mode (mouse mode; col. 4, lines 5-10) and the second wireless transmitter being associated with the second control mode (remote control mode; col. 5, lines 1-7).

In reference to claims 3 and 4, Olsen discloses the wireless transmitter can be infrared or radio frequency (col. 4, lines 5-10; col. 5, lines 1-5).

In reference to claim 9, Lu discloses the sensor additionally provides for a determination of whether the controlling device is being used to interact with a surface, or has been removed from the surface [0031, see rejection as applied to claim 8 above].

In reference to claim 10, Lu discloses determination that the controlling device is being used to interact with a surface causes activation of the first control mode, i.e.: mouse desk bound mode [0032].

In reference to claim 11, Lu discloses the determination that the controlling device has been removed from the surface causes activation of the second control mode ([0032] and [0033]).

In reference to claim 12, Olsen discloses the user interface comprises a button based user interface (buttons 28 and 36 in Fig. 2A).

In reference to claim 13, Olsen discloses the button based user interface comprises at least one hard button (button 28).

In reference to claim 20, Olsen discloses the control signals transmitted in the first control mode function to move a PC cursor (col. 4, lines 1-9).

Claims 22-27 are method and computer instructions claims corresponding to the apparatus of claims 1-4, 9-13, 20 and therefore, rejected based on the same basis set forth in said claims.

4. Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Lu (US 2003/0107552 A1) as applied to claims 1-2, 5-13 and 15-27 and further in view of Lueders (U.S Patent No. 6,067,074).

In reference to claims 14 and 28, the combination of Olsen and Lu does not disclose the button based user interface comprises an EL panel and a graphical user interface having active elements for causing the control data signals to be transmitted to the system. Lueders discloses a button based user interface using an EL panel (34; Fig. 2) with graphical user interface having active elements provided on the panel (Fig. 4-5 and 8; col. 4, lines 32-43; col. 6, lines 41-51). Furthermore, Olsen discloses the display 34 remain dark (not active) when the computer mouse is in used (col. 4, 23-43).

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the EL panel with the graphical user interface provided thereon in the control unit of Olsen and Lu in view of the teaching of Lueders because it would provide users a friendly control panel for controlling including an array of pressure sensitive dots responding to a graphical input giving the users new options to select for accomplishing desired function (col. 2, lines 62-65).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-4, 9-12, 14, 20, and 22-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q. DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD HJERPE can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/681,796

Page 7

Art Unit: 2629

DUC Q DINH  
Examiner  
Art Unit 2629

DQD  
May 22, 2006

A handwritten signature in black ink, appearing to read 'R. Hjerpe', is written over the printed name and title.

**RICHARD HJERPE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600**